

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3838 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

IBRAHIM G MIRANI

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Appearance:

MR HARDIK RAVAL for Petitioner

MR HK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 05/12/97

ORAL JUDGEMENT

This petition under Article 227 of the Constitution challenges the order dated November 30, 1985 passed by the Labour Court in Ref. (LCR) No.1186/83 setting aside the order terminating the services of the respondent from the post of traffic controller and directing the Gujarat State Road Transport Corporation, Amreli (hereinafter referred to as the Corporation) to reinstate the respondent in service with full back-wages.

There is no dispute about the fact that the respondent was a permanent employee of the petitioner Corporation holding the post of traffic controller at the time of his removal from service which order was passed by the Corporation in exercise of the power under Regulation 61 of the Gujarat State Road Transport Corporation Employees Service Regulations (hereinafter referred to as "the Regulations"). The provisions of the said Regulations earlier came to be considered by this Court in the case of Amarsing Setansing Medatia Vs. Gujarat State Road Transport Corporation & Ors. 21 GLR 500 and this Court upheld the vires of the said Regulations by circumscribing the limits within which the said powers could be exercised. After appreciating the facts of the case the Labour Court came to the conclusion that the order was illegal and that the case did not fall within the limited scope of Regulation 61. Hence the Labour Court directed the Corporation to reinstate the respondent in service with full back wages as per its award dated November 30, 1985.

It is stated at the Bar that in compliance with the aforesaid award the Corporation reinstated the respondent in service in January 1986 and thereafter filed the present petition. The petition was admitted in August 1986 but no interim relief was granted. The Corporation therefore, paid full back wages to the petitioner in October 1986. It is also stated by Mr. Rathod learned Counsel for the respondent that after reinstatement in service, the respondent came to be promoted to four higher posts in the channel of promotion: Assistant Traffic Inspector, then to the post of Traffic Inspector thereafter to the post of Assistant Traffic Superintendent and finally to the post of Depo Manager (B) from which post the respondent ultimately retired from service on reaching the age of superannuation.

The petition has reached for final hearing today but in the intervening period the provisions of Regulation 61 have also come to be struck down by the Supreme Court in Civil Appeal No., 3912/86 decision July 17, 1996 following its decision in the case of Delhi Transport Corporation Vs. DTC Mazdoor Congress and Ors, 1991 Supp (1) SCC 600, as the same have been held to be violative of Articles 14 and 16 and 19 of the Constitution.

In view of the aforesaid pronouncement of the Apex Court it must be held that the order of termination

passed by the Corporation was without authority of law. The termination order was admittedly passed without holding any inquiry. In view of the aforesaid admitted facts that the respondent was a permanent employee of the Corporation and that his services came to be terminated without holding any inquiry and when Regulation 61 of the Regulations has been held by the Supreme Court to be ultra vires the Constitution there is no escape from the conclusion that the termination order was illegal and void ab initio. In this view of the matter, the directions issued by the Labour Court for reinstatement and payment of full back wages to the respondent, which have been complied with as stated above, cannot be faulted with.

In view of the above discussion, the petition deserves to be dismissed and is dismissed. Rule is discharged with no order as to costs.

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sharma